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Docket # 92-51

FCC SMALL BUSINESS ADVISORY COMMITTEE

MEETING OF MAY 27, 1993
WASHINGTON, D.C.

WRITTEN PRESENTATION OF BARRY D. UMANSKY
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NATIONAL ASSOCIATION OF BROADCASTERS

Good afternoon. My name is Barry Umansky. I am the Deputy General Counsel of the National Association of Broadcasters. NAB is a trade association, based here in Washington, which represents over-the-air radio and television stations and broadcast networks.

We have had a strong interest in the activities of this Small Business Advisory Committee since its creation. We at NAB believe it is important for broadcasters and potential broadcasters to be given greater access to capital. The broadcasting industry -- particularly radio -- largely is comprised of small businesses.

In this regard, one primary goal is to make broadcasters eligible once again for SBA loans, as is being advocated by several participants in today's dialogue.

NAB also believes that the Commission should provide additional benefits to minority broadcasters and minority entrepreneurs -- generically and specifically in the context of FM broadcasting. These advances include the proposed expansion of the tax certificate program and the adoption of special provisions for minority broadcasters under a new, and critically needed, FM station allocation and licensing policy.

Finally, NAB believes there are many current and future ways, through technical means and technological advance, whereby broadcasters can provide new services and obtain additional revenue streams to support their locally-responsive broadcast operations.

ACCESS TO CAPITAL

Now and in the future, broadcasters and potential broadcasters will need greater access to capital. Perhaps one of the greatest impediments to this goal is the Small Business Administration rule that makes broadcasters ineligible for SBA loans. This so-called "opinion molder" rule serves only to impede greater program diversity. The opinion molder rule, discriminates against broadcasters and, frankly, doesn't make sense as applied to our industry.

For several decades the Small Business Administration (SBA) followed a policy of not granting financial assistance to otherwise eligible businesses when these businesses engaged in the "dissemination of intellectual property" and, thereby, "molded public opinion." The basis of this "media policy prohibition" was to "avoid government interference, or the appearance thereof, with the constitutionally protected freedoms of speech and press ...." The policy was adopted pursuant to the SBA's "responsibility to consider the impact of loan programs on the public interest."

An exception to this media policy was made for commercial broadcasters

One concept that has been advanced -- granting a security interest in a broadcast license to a lending institution -- is one where NAB has some serious doubts. It is our feeling that if such a security interest were established, it might function very much against the interests of broadcasters in situations where there were a need for a "workout" with a lending institution.

EXPANDING THE FCC TAX CERTIFICATE PROGRAM

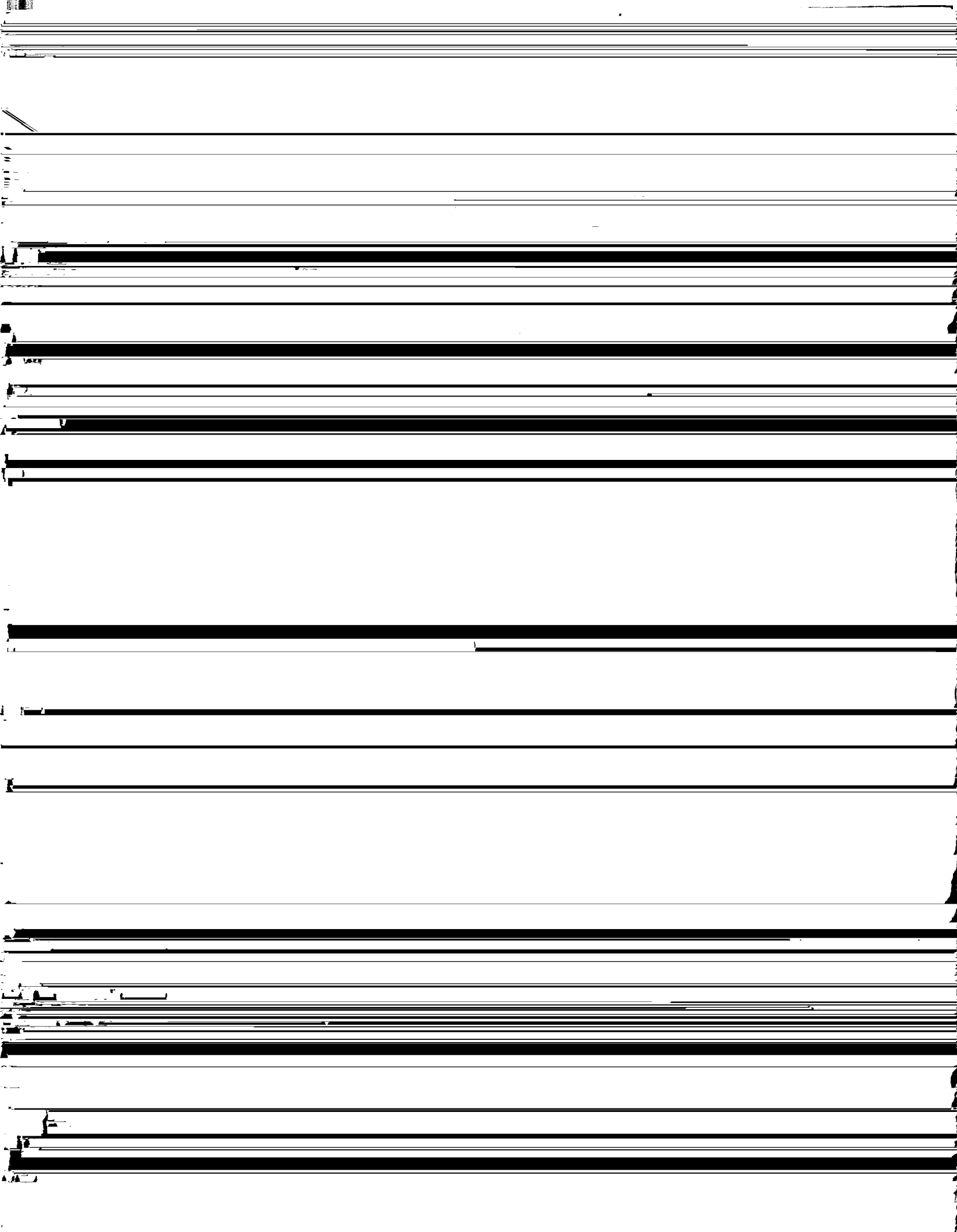
As the record clearly demonstrates, NAB was a prime mover in the establishment of the current minority tax certificate policy. In 1977, NAB filed a Petition for Rule Making requesting the Commission to extend its tax certificate policy to promote minority ownership of broadcast facilities. And we believe the time has come for this policy to be expanded.

One useful way for the tax certificate policy to become more valuable -- for minority and non-minority broadcasters -- would be for the FCC to expand the number of reinvestment choices for an incumbent broadcaster transferring a broadcast property to a minority buyer.

Currently, a broadcaster must reinvest the proceeds from the sale -- deferring the gains from that sale -- in a communications company holding an FCC license. Because the Commission has significant latitude in adopting rules and policies to implement Section 1071 of the Internal Revenue Code, we believe the Commission should consider whether reinvestment in any company that is the holder, or which a subsidiary is the holder, of one or more FCC licenses should be sufficient to defer recognition of the gain. Simply allowing investment in "media" -- FCC regulated or not -- might make sense as well. By making it easier for sellers of stations to reinvest proceeds from sales, the Commission will further its goal of increasing diversity of ownership.

There are several other current proposals for expanding the tax certificate policy. Many of these concepts were advanced in a petition submitted to the FCC nearly a year ago by a coalition of interested parties. NAB believes that the concepts embodied in this petition deserve thorough review by the Commission.

NAB recently has reiterated its view that the tax certificate policy should be expanded, especially in the context of FM radio allocations and licensing. In a separate Petition for Rule Making NAB filed last year, we urged the FCC to reevaluate completely its FM allocation and licensing policy. Our concern is that FM radio is replicating the AM experience. That is one of too much interference and too many stations to be supported by the current radio slice of the advertising pie. FM radio congestion is leading to impaired technical service and is making it more difficult for stations to provide locally-responsive service.



points concern the substance and procedure associated with the Commission's adoption of rules allowing a higher level of national ownership where the additional stations will be controlled by either minorities or by small business entities.

In the radio ownership Memorandum Opinion and Order released this past September, which modified the Commission's March, 1992, Report and Order, the Commission restored an "incentive system" for additional national ownership opportunities. But it did not continue the straightforward "minority control" criterion for additional national ownership. Such a choice may well be at odds with current Congressional limitations forbidding any weakening of the minority ownership provisions previously found in the Commission's ownership rules. NAB, therefore, believes the Commission would be wise to revisiting this matter as part of an overall assessment of how to advance minority ownership in radio.

Similarly, NAB urges the Commission to look again at its proposed incubator plan -- whereby an even greater national number of stations could be attained by a group owner providing financial or other assistance to either minorities or small business entities. In comments filed at the FCC, NAB advised the Commission to ensure that any new incubator plan not diffuse efforts aimed at increasing minority ownership of radio stations.

ADDITIONAL SERVICES, REVENUE STREAMS AND ADVANCED TECHNOLOGY

At an earlier meeting of the Advisory Committee, a major topic of conversation was the current and future availability to broadcasters of additional revenue streams -- beyond advertising revenues from the sale of commercial time. There also was an expressed interest in what new services broadcasters might be able to provide in the future. Below is a brief review of these matters.

NAB and its members have been at the forefront of providing new and diverse services through broadcast spectrum. Now with Washington policymakers focussing on new technology, NAB is urging government to ensure that radio and TV stations be given the opportunity to inaugurate many of these technologies for the American public.

Current technologies employed by broadcasters -- in addition to their main channel service -- include the use of FM and TV subcarriers, along with AM residual carrier power. Over their FM and TV subcarriers, broadcasters provide the conduits for paging operations, telemetry, background music services and distribution of data. AM station and FM station subcarriers are used for utility load management as well. Many broadcasters also have found additional revenue streams through leasing tower space to other communications providers.

But the big advances for broadcasters -- in providing new services for the public and obtaining new revenue streams -- may well be in the near future. The digital age is coming to over-the-air broadcasting. The essence of high definition television and digital audio broadcasting is the incorporation of digital technology. In addition to providing much clearer audio and high quality pictures, this transmission mode will allow broadcasters to provide additional data and other services to their communities. This all can be done without further reallocation of spectrum for broadcasting.

Tower Leasing

A station's transmitting tower is a valuable resource which can be used by other communications users in the community and region. One way to supplement station advertising revenues, at little additional cost, is to lease available tower space to other communications companies.

About 85% of all radio stations own their transmitting towers. About 80% of television stations own their own towers. Nearly 75% of TV stations owning their own towers lease space to other companies -- usually to private land mobile companies, radio paging companies and other broadcasters. Leasing on TV towers has steadily increased in recent years.

Tower space leasing is less common among radio stations, with only one out of four radio stations leasing extra space on their towers. But that number too should grow as stations look more and more for additional revenue sources.

Subcarrier Services

Both radio and TV stations can employ subcarriers to provide additional services and enhance revenues. Approximately one-third of FM radio stations use their subcarriers. In larger, metropolitan markets, that percentage is slightly higher. According to data gathered a few years ago, some of the typical services provided over FM subcarriers are telemetry, music, computer data delivery and radio paging.

Although we don't have reliable data on the number of such current uses, AM stations have been relatively successful in using their "residual carrier power" to provide services such as utility load management, sending signals to devices connected on power-consuming equipment (e.g. air conditioners, water heaters, etc.) found in homes, apartment houses and businesses. These devices typically regulate the use of such equipment during times of peak electric demand.

NEW BROADCAST TECHNOLOGIES

On the near horizon are other technologies that promise to increase the services provided over broadcast spectrum and provide broadcasters with additional sources of revenue.

Radio Broadcast Data Service

Now coming "on line" is the Radio Broadcast Data Service ("RBDS"). The U.S. standard for RBDS was released in January 1993. RBDS is a data broadcasting technology that enables FM stations to transmit low-speed data to a new generation of "smart" radio receivers capable of performing a variety of automatic functions.

There are many RBDS "broadcast enhancement" features, but they can be categorized into four basic enhancements of a broadcast operation:

- A receiver display feature, which allows RBDS radios to display up to eight alphanumeric characters which could be used to provide listeners with station call letters or slogans.

- Format-tuning, where the seek/scan functions can be narrowed to stop only on stations carrying a desired format such as Talk, Country or Rock.

- The ability for RBDS receivers to act in a cellular type of signal hand-off configuration which ensures, as much as possible, that listeners continue to hear their program of choice.

- And, finally, a special traffic or emergency announcement feature, where RBDS receivers could be set up to switch automatically from any audio mode -- cassette, CD, or even when turned off -- to a traffic or emergency announcement.

In addition to these broadcast enhancements, RBDS also incorporates a radio paging feature which could provide all FM stations with an additional source of revenue. Other data services also could be provided over the RBDS system.

One method for accommodating AM stations that has been included in the RBDS standard allows AM stations to enjoy two of the RBDS features -- the tune by format feature and a limited use of the RBDS receiver display. A technology, called ID-LOGIC B, has the potential to allow AM stations to participate in these parts of RBDS.

No special FCC authorization is required to begin transmitting RBDS data. In fact, ten radio stations in Las Vegas were equipped with RBDS encoders as part of a large RBDS receiver demonstration at the January, 1993 Consumer Electronics Show and at NAB's Convention in April, 1993. The RBDS displays were designed to acquaint broadcasters with the benefits of this new technology.

Digital Audio Broadcasting

To stay competitive with digital competitors, a critical first step for radio will be the transition from analog to digital technology, and that means Digital Audio Broadcasting, or DAB.

NAB believes that the best DAB option for AM and FM broadcasters, and for the listening public, is the development of in-band, on-channel (IBOC) DAB systems. An in-band, on-channel solution offers broadcasters inexpensive entry into DAB, while minimizing disruption and eliminating the need for new towers, transmission sites, or frequency assignments. It also provides the clearest regulatory path at the FCC.

While the success of in-band, on-channel development is still uncertain, NAB is committed to a DAB solution that will make DAB worthwhile -- and which can accommodate all existing FM and AM broadcasters.

Two key questions remain: How much will DAB cost and when will it get here? Here are NAB's best estimates.

For the average FM station, the DAB cost is estimated to be somewhere between $20,000 and $100,000 -- with most stations falling between $20,000 and $50,000. The difference will come down to how much of the station's current operations are in digital. The transmitter alone will cost about $20,000. For AM stations, the cost will likely be higher. USA Digital -- a leading DAB proponent -- believes the cost for AM stations will be as high as $150,000.

Because of these significant costs, and due also to the precarious financial condition of the radio industry, radio stations will need to find significant sources of capital to provide DAB to listeners. DAB also will provide broadcasters with the opportunity to offer additional digital data services over their DAB facilities. These services promise to provide new sources of revenue for radio broadcasters -- using no new spectrum for these additional broadcast and non-broadcast services.

High Definition Television

For television broadcasters, the big issue for the next few years will be HDTV — High Definition Television.

The FCC has determined that HDTV will benefit the public, and that existing television broadcasters should be the first ones eligible for HDTV licenses. In addition, current FCC policy is that existing television licensees will continue to broadcast the current NTSC system on existing channels, and a second new channel, or so-called simulcast channel, will be used to transmit HDTV.

While the FCC proposes to restrict the eligibility for HDTV frequencies to existing television broadcasters, it does seem that the spectrum for HDTV services will not be set aside forever. The FCC is interested in the eventual, full conversion from

will be configured to facilitate interoperability among broadcasting, cable, computer and telecommunications technologies.

Regarding HDTV costs for broadcasters, in 1990 both CBS and PBS conducted studies on station HDTV conversion costs. The CBS and PBS studies modelled the HDTV transition as taking place in several well-defined stages or phases. CBS, for example, identified the following phases that would be gradually implemented:

Phase A -- Network pass-through
Phase B -- Local commercial insertion
Phase C -- Playback of syndicated programs
Phase D -- Local origination of programs
Phase E -- Complete conversion of station plant
Phase F -- Local ENG capability

In 1993, the Economics Working Party of the FCC Advisory Committee defined a "transitional" ATV station. The idea was to come up with a realistic model of ATV broadcast station that starts out with minimal HDTV capabilities, but also has the ability to upgrade or expand. The transitional station could pass through network or syndicated program sources and would have the ability to upgrade easily to more extensive ATV operations -- basically the first two phases in the CBS study.

NAB commissioned a study on HDTV costs, which was released this past April, called The NAB 1993 Guide to HDTV Implementation Costs. The estimated cost for operating a transitional station, based on average equipment expenses, ranged from about $1.9 million to $2.2 million, depending on the transmission system configuration. There are many assumption built into this cost estimate, such as already having adequate space and support facilities, such as power and air conditioning; and, that the station already owns its own tower and there is enough space on the tower for a new antenna and only structural reinforcement of the tower is required, among other considerations.

Higher HDTV conversion costs would come from originating programs, including news operations. CBS and PBS both estimated total conversion costs at about $10 - $12 million. However, when you begin considering studio operations, the variations in cost are significant, depending on the extent of operations being planned.

Thus, for HDTV as well, the need for capital will be enormous. But, as with radio's move to DAB, the move to digital transmission in HDTV will take TV broadcasters into the digital age, where TV stations offering HDTV will be able to provide a wealth of digital data services as well.

If the American public is to receive these services from radio and TV stations, then broadcasters will need to find sources of capital to allow them to purchase new equipment and incorporate these new technologies. That is a goal for all of us meeting today.

Attachment

RECENT FINANCIAL INFORMATION

ON TELEVISION AND RADIO STATIONS

1. Nearly 60% (58.6%) of all radio stations lost money in 1991.

2. Over 64% of AM Fulltime and Daytime stations lost money in 1991. More than half of AM Fulltime stations lost more than $19,000 and more than half of all AM Daytime stations lost more than $16,107. One quarter of AM fulltime stations lost more than